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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON**  
9 **AT SEATTLE**

10 STATE OF WASHINGTON, et al.,

11 PLAINTIFFS,

12 v.

13 U.S. DEPARTMENT OF  
TRANSPORTATION et al.,

14 DEFENDANTS.  
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NO. 2:25-cv-00848

DECLARATION OF  
JERRY P. VALDEZ IN SUPPORT  
OF PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION

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2 I, Jerry P. Valdez, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746  
3 that the foregoing is true and correct:  
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5 1. I am a resident of the State of New Mexico. I am over the age of 18 and have  
6 personal knowledge of all the facts stated herein, except to those matters stated upon  
7 information and belief; as to those matters, I believe them to be true. If called as a witness, I  
8 could and would testify competently to the matters set forth below.

9 2. I am currently employed by the New Mexico Department of Transportation  
10 (NMDOT) as Executive Director.

11 3. As NMDOT Executive Director, I am responsible for the Office of Special  
12 Projects where I administer and implement special projects as assigned by the Secretary of  
13 NMDOT over a wide range of transportation-related areas.  
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15 4. New Mexico Governor Michelle Lujan Grisham's Executive Order on  
16 Addressing Climate. Change and Energy Waste Prevention (EO 2019-003) directs New  
17 Mexico "to achieve a statewide reduction of greenhouse gas emission of at least 45 percent by  
18 2030 as compared to 2005 levels." Subsequently, Governor Lujan Grisham also added a long-  
19 term target of reaching net-zero GHG emissions by 2050. The New Mexico Department of  
20 Transportation (NMDOT) was to receive approximately \$38.388 million in federal NEVI  
21 Formula funding to contribute to these goals for the year 2022 through 2026. These funds were  
22 to be used for the expansion of a national EV charging infrastructure network on the State of  
23 New Mexico's primary interstates and Alternative Fuel Corridors (AFC's) as described in the  
24 State of New Mexico EV Infrastructure Deployment Plan.  
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1           5.       Like many states, New Mexico is expecting the National Electric Vehicle  
2 Infrastructure (“NEVI”) Formula Program established in the Infrastructure Investment and  
3 Jobs Act (“IIJA”) to play a critical role in the State’s ability to transition to electrification of  
4 vehicles. See IIJA, Pub. L. No. 117-58, 135 Stat. 429 (2021).

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6           6.       The IIJA allocated \$5 billion over federal fiscal years 2022 - 2026 for the NEVI  
7 Formula Program to fund strategic deployment of electric vehicle (“EV”) charging  
8 infrastructure. The Federal Highway Administration (“FHWA”) administers the NEVI  
9 program. Each state is required to submit a State Electric Vehicle Infrastructure Deployment  
10 Plan (“State Plan”) for each fiscal year describing how the state intends to use the NEVI funds.

11           7.       The IIJA further requires the Secretary of Transportation, within ninety (90)  
12 days of the statute’s enactment and in coordination with the Secretary of Energy, to develop  
13 “Guidance for States and localities to strategically deploy electric vehicle charging  
14 infrastructure” consistent with the NEVI Formula Program provisions of the IIJA (“NEVI  
15 Formula Program Guidance”). FHWA issued NEVI Formula Program Guidance on February  
16 10, 2022, and has updated the guidance annually.

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18           8.       New Mexico prepared and provided to the FHWA its State Plans for fiscal years  
19 2022-2025 describing how NMDOT intended to use its share of funds to carry out the NEVI  
20 Formula Program.

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22           9.       The FHWA approved New Mexico’s State Plans in letters dated 10/4/2023 and  
23 11/15/2024 which explicitly stated that “with this approval, Fis Year’s 24 and 25 ... funds are  
24 now available to State for obligation.”  
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1           10.    The NEVI funding to New Mexico was appropriated per year as follows:

2                   FY22-\$5,681,977

3                   FY23-\$8,176,429

4                   FY24-\$8,176,486

5                   FY25-\$8,176,493

6                   FY26-\$8,176,510

7                   TOTAL- \$38,387,895

8           11.    The NMDOT has obligated and contracted \$11.6 million of the total  
approximately \$38,388 million before the state was informed that the program was suspended.

9           12.    On January 20, 2025, President Trump issued an Executive Order (“EO”)  
10 entitled Unleashing American Energy. Section 7(a) of the EO directs all agencies to  
11 “Immediately pause disbursement of funds appropriated through” the IJA, including but not  
12 limited to funds for electric vehicles charging stations made available through the [NEVI]  
13 Program.”

14           13.    On February 6, 2025, NMDOT received a letter from Emily Biondi, the  
15 Associate Administrator for the Office of Planning, Environment and Realty in the FHWA,  
16 with the subject “Suspending Approval of State Electric Vehicle Infrastructure Deployment  
17 Plans.”

18           14.    The February 6 letter informed State Transportation Directors that the new  
19 leadership of DOT “has decided to review the policies underlying the implementation of the  
20 NEVI Formula Program” and was therefore rescinding NEVI Formula Program Guidance.  
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22           15.    The February 6 letter further claimed that FHWA “aims to have an updated  
23 draft NEVI Formula Program Guidance published for public sometime in the spring” and that  
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1 the Agency “will publish updated final NEVI Formula Guidance that responds to comments  
2 received” after the public comment period was closed.

3 16. Finally, the FHWA informed NMDOT that it would be “immediately  
4 suspending the approval of all State Electric Vehicle Infrastructure Deployment plans for all  
5 fiscal years” and prohibiting future obligations “under the NEVI Formula Program until the  
6 updated final NEVI Formula Program Guidance is issued and new State plans are submitted  
7 and approved.”

9 17. The February 6 letter therefore made clear that NMDOT would not have access  
10 to the remaining \$18.611 million in funds which had been made available to NMDOT through  
11 its State Plan Approvals. FHWA has further given NMDOT no sense of how it can apply for  
12 the remaining \$8,176,510 it expected to receive for FY2026.

14 18. NMDOT relied and acted upon the FHWA’s statutory obligation to provide  
15 NEVI Formula Funding consistent with the IIJA’s requirements. The State of New Mexico  
16 through the Department of Transportation was relying on the federal funding to build out  
17 electric vehicle charging stations to advance the adoption of electric vehicles in order to have a  
18 positive impact on the states GHG reduction goals. While existing contracts will still be  
19 honored, no new funding obligations are being issued. As a result, projects in the middle of  
20 contract negotiations have been forced to abruptly halt, with no clear timeline for when they  
21 might resume or whether they will be reimbursed at all. This has thrown the project into chaos,  
22 creating confusion over how to proceed and what to do next as contractors were gearing up for  
23 further investments.  
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